

Remarks:

Claims 1-12 remain for consideration in this application along with newly added claims 13-14. In view of the claims as they now stand, together with the remarks hereunder, the rejections of the last office action are respectfully traversed.

The present invention is generally directed toward a method of hydrolyzing defatted jojoba meal. The Examiner has noted that the claims appear to be free of the prior art, but has rejected the claims under 35.U.S.C.112, first and second paragraphs.

With respect to the §112, first paragraph, rejection, the Examiner rejected claim 2 because it did not appear that the pH level of between 7.5-8.0 was supported by the instant specification. However, this pH range is supported in the specification in Example 1, at page 6, line 3, which notes that during hydrolysis "the pH was maintained between 7.5-8.0 using 50% NaOH." Therefore, Applicants submit that the pH range recited in claim 2 is fully described in the specification in such a way so as to enable one skilled in the art to make and/or use the invention, and request that the §112, first paragraph rejection be withdrawn.

The Examiner made a number of rejections based on §112, second paragraph, for indefiniteness in failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. One such rejection involved the limitations of "forming an aqueous alkaline dispersion" in claim 1 and "forming an aqueous acidic dispersion" in claim 9. Applicants have amended claims 1 and 9 to remove the dispersion forming step. Instead, the aqueous dispersion limitations have been placed in the hydrolyzing step of claim 1 and the heating step of claim 9. Therefore, claim 1 now reads, "hydrolyzing an aqueous dispersion of defatted jojoba

meal..." and claim 9 now reads, "heating an aqueous acidic dispersion of said jojoba meal..." Therefore, because these claims no longer recite a dispersion formation step, the issue of the claims not reciting a clear and distinct process for forming the dispersion is now moot.

The Examiner rejected the claims 1-8 because the recitation of "said defatted jojoba protein" at line 3 in claim 1 lacked antecedent basis in the claims. Applicants have amended claim 1 by removing this term entirely thereby obviating any antecedent basis problem associated with the use of the term "jojoba protein." Furthermore, Applicants have amended claim 1 by removing the term "remaining" from the last line in order obviate any clarity problems associated with such term, i.e. how many enzymes will be remaining in the dispersion for the deactivation step.

The Examiner rejected claim 3 because the phrase "said additional mixing step" appeared to lack proper antecedent basis. Applicants have amended claim 3 as suggested by the Examiner by deleting the term "step". Applicants have also amended claims 4-5 as suggested by the Examiner to change the term "said" to "the" thereby obviating antecedent basis problems for the phrase "said acid addition step." Applicants have made a similar amendment in claim 7 by replacing "said" with "the" immediately preceding the phrase "enzyme deactivation step." Applicants submit that all antecedent basis problems have now been corrected.

The Examiner rejected claim 8 because the term "aging" was vague and unclear. Applicants have amended claim 8 to remove this term and have added claim 13, which is dependent upon claim 8. Claim 13 recites the limitation of aging the retentate fraction for a period of about 1-2 weeks, thereby making clear the meaning of the term "aging" as used in the present claims. A similar amendment has been made to claim 12 in that the phrase "and allowing the same to age" has been

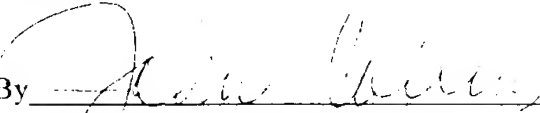
removed and new claim 14 has been added reciting the limitation of aging the hydrolysate for a period of about 1-2 weeks. Support for claims 13 and 14 can be found on page 6, line 29, and page 8, line 8 of the specification, respectively. MPEP 2111.01 states that "words of the claim must be give their plain meaning unless applicant has provided a clear definition in the specification. *In re Zleta*, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)." *The American Heritage Dictionary of the English Language*: Fourth Edition, 2000, states that the verb "aging" means "causing to become old." Therefore, in claims 13 and 14, it would be clear to one of ordinary skill in the art that in order to "age" the retentate or hydrolysate for a period of about 1-2 weeks, one would simply cause the material to "become old" for the claimed length of time. Because the time limitation of claims 13 and 14 provides meaning to the term "aging" contained therein, such term no longer renders the claim vague and unclear. Applicants request that this §112, second paragraph, rejection be withdrawn.

The Examiner rejected claim 9-12 as being vague and indefinite because of the phrase "to generate". More specifically the Examiner stated it was unclear whether heating and agitating are required to generate a hydrolysate. Applicants have amended claim 9 as suggested by the Examiner to provide separate heating and agitating steps. The Examiner also rejected claim 11 because of the term "solids level" was unclear. Applicants have amended claim 11 as suggested by the Examiner to change "to a solids level of 20-30%" to "to provide for a solids content of 20-30% of said hydrolysate." With respect to the claim 12 rejection, as noted above, Applicants have deleted the phrase "and allowing the same to age" thereby obviating this clarity rejection.

As noted above, the Examiner has indicated that claims 1-12 appear to be free of the prior art. Therefore, in view of the foregoing amendments, a Notice of Allowance appears to be in order and such is courteously solicited.

Any additional fee which is due in connection with this amendment should be applied against our Deposit Account No. 19-0522.

Respectfully submitted,

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ATTORNEYS FOR APPLICANT(S)

**VERSION WITH MARKINGS TO SHOW CHANGES MADE****Claims:**

The following claims were amended:

1. (Amended) A method of hydrolyzing defatted jojoba meal comprising the steps of:  
[forming an aqueous alkaline dispersion of said defatted jojoba meal:]  
hydrolyzing an aqueous dispersion of said defatted jojoba meal [said jojoba protein] by  
adding protease enzymes to said dispersion and agitating the dispersion:  
adding an acid to said agitated dispersion to lower the pH thereof: and  
deactivating [remaining] protease enzymes in said dispersion.
- 3 (Amended) The method of claim 2, including the step of adjusting the pH of said  
dispersion to 6.5 after said additional mixing [step] is completed, and then adding dosages of three  
protease enzymes with still further agitation.
- 4 (Amended) The method of claim 1, [said] the acid addition step comprising the step  
of adding lactic acid to said dispersion to lower the pH to 4.5.
- 5 (Amended) The method of claim 1, including the step of adding sodium metabisulfite  
to said dispersion after [said] the acid addition step.
7. (Amended) The method of claim 1, including the step of passing said dispersion after  
[said] the enzyme deactivation step through a filtration system to generate respective permeate and  
retentate fractions having different molecular weight profiles, with the retentate fraction having a  
higher molecular weight profile than said permeate fraction.
8. (Amended) The method of claim 7, including the step of chilling [and aging] said  
retentate fraction.
- 9 (Amended) A method of hydrolyzing jojoba meal comprising the steps of:  
[forming an aqueous acidic dispersion of said jojoba meal:]  
heating an aqueous acidic dispersion of said jojoba meal [said dispersion] to a temperature  
of 212-220°F;  
[and] agitating the dispersion to generate a hydrolysate; and  
cooling the hydrolysate to 120-140°F and neutralizing the hydrolysate.

11. (Amended) The method of claim 9, including the steps of filtering said hydrolysate, and concentrating the hydrolysate to provide for a solids [level] content of 20-30% of said hydrolysate.

12. (Amended) The method of claim 11, including the steps of chilling and filtering the hydrolysate [and allowing the same to age].

Claims 13 and 14 have been added.